

DEPARTMENT OF STATE REVENUE

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LETTER OF FINDINGS NUMBER: 97-0380 MVE

Motor Vehicle Excise Tax

For Tax Periods 10/94 Through 10/96

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Motor Vehicle Excise Tax — Imposition

Authority: IC 9-18-2-1

Taxpayers protest the imposition of the motor vehicle excise tax on their 1995 Buick.

STATEMENT OF FACTS

Throughout the assessment periods, taxpayers (husband and wife) remained legal residents of Indiana. Taxpayers also maintained a residence in California. While in California, taxpayers purchased the 1995 Buick in October, 1994. Taxpayers titled and licensed the vehicle in California. The Buick was not titled and licensed in Indiana until November, 1996. Taxpayers were assessed the motor vehicle excise tax for the period from the date of the vehicle's purchase to the date it was registered in Indiana. Taxpayers protest this assessment. Additional relevant facts will be provided below, as necessary.

I. Motor Vehicle Excise Tax — Imposition

DISCUSSION

Taxpayers protest the imposition of the motor vehicle excise tax as they claim IC 9-18-2-1 did not apply to them throughout the assessment period. IC 9-18-2-1 states in pertinent part:

(a) Within sixty (60) days of becoming an Indiana resident, a person must register all motor vehicles owned by the person that:

- (1) are subject to the motor vehicle excise tax under IC 6-6-5; and
- (2) will be operated in Indiana.

Taxpayers claim the 1995 Buick was not operated in Indiana throughout the assessment period, therefore, they are not responsible for the motor vehicle excise tax. Taxpayers claim they went to their home in California in the Fall of 1994 with the intention of spending the winter in a warmer climate. Taxpayers also claim that during this stay, the wife developed health problems which required the taxpayers to remain in California until the Fall of 1996.

Taxpayers submit an affidavit from an acquaintance (Affiant) which states she was asked by taxpayers to assist in bringing the vehicle to Indiana in the Fall of 1996. Affiant states she picked up the Buick in Arizona, took the vehicle on a vacation trip and then returned it to the taxpayers at their home in Indiana on September 17, 1996.

Affiant also states that she is well-acquainted with the taxpayers and has personal knowledge that they never brought the vehicle into Indiana prior to the Fall of 1996, when she rendered her assistance.

FINDING

Taxpayers protest is sustained. Taxpayers have proven to the Department's satisfaction that the 1995 Buick was not operated in Indiana prior to the Fall of 1996, and, therefore, was not subject to the motor vehicle excise tax.